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**OUT-OF-CYCLE REVIEW HIGHLIGHTS PROGRESS ON CURRENT  
TELECOMMUNICATIONS INTERCONNECTION ARRANGEMENTS IN GERMANY  
AND CONCERN REGARDING ARRANGEMENTS IN 2000**

United States Trade Representative Charlene Barshefsky today announced the extension of an out-of-cycle review of Germany's compliance with telecommunications trade agreements under section 1377 of the Omnibus Trade and Competitiveness Act of 1988. The review, initiated on March 30, 1999, found that recent German regulatory decisions did not reflect restrictive and potentially WTO-inconsistent proposals made by the dominant German telecommunications carrier. However, the review also concluded that the favorable effects of those decisions could be short-lived in preventing anti-competitive behavior by Deutsche Telekom, the former monopoly, as new interconnection arrangements applicable from January 1, 2000 are yet to be finalized. Germany committed to prevent such anti-competitive behavior as part of the WTO Basic Telecom Agreement.

"We welcome recent decisions by the German telecommunications regulator to reject most of the unreasonable rates, terms and conditions that Deutsche Telekom has sought to impose immediately on new entrants to the telecommunications market," said Ambassador Barshefsky. "Further action by the regulator is essential to secure market access for U.S. industry in the newly-liberalized German telecommunications services market."

Deutsche Telekom, on December 31, 1998, gave a twelve month advance notice of termination of all interconnection agreements with its competitors. German telecommunications regulatory officials have indicated their intention to announce in the early fall of 1999 a new interconnection policy, to take effect on January 1, 2000 or shortly thereafter. At the same time, Deutsche Telekom reportedly is negotiating potentially precedent-setting interconnection contracts with one or more competitors. However, in public comments filed with USTR regarding the out-of-cycle review, U.S. carriers expressed strong concern about the possible outcomes of both processes. Moreover, they expressed concern that Deutsche Telekom would be allowed to continue delaying the supply of interconnection facilities to its competitors and that it would not be compelled to inform its competitors of when and where such interconnection facilities would be most promptly

available.

“German regulatory authorities must take concrete steps to ensure that Deutsche Telekom provides timely interconnection at fair rates, terms and conditions for prospective entrants,” said Ambassador Barshefsky. “We will monitor upcoming decisions on interconnection arrangements for 2000 and beyond to determine whether Germany has met its WTO obligations, and we are prepared to take WTO action thereafter if the outcome is not consistent with those obligations.”

### Background

Starting in the second quarter of 1998 and after concluding a number of satisfactory interconnection agreements with early new entrants to the German telecommunications market, Deutsche Telekom (DT) slowed the pace of interconnection negotiations and sought tougher rates, terms and conditions for subsequent prospective entrants. All new entrants need to interconnect with the DT network to access the German market, and Germany committed to assure fair interconnection rates, terms and conditions in adopting the WTO Reference Paper.

The German regulator recently has begun to take action consistent with its WTO commitments. A pair of favorable regulatory decisions, issued in May, declined to allow excessive requirements that Deutsche Telekom sought to impose regarding the scale of competitors’ facilities, minimum/maximum traffic requirements, or surcharges for “atypical traffic”. “Atypical traffic” is the change in traffic patterns caused by new entrants moving traffic between their own networks and the DT network to obtain the lowest cost in completing customer calls. The regulator indicated it will reconsider the surcharge proposal if Deutsche Telekom can provide better empirical cost justification. However, competitors to Deutsche Telekom would remain unable directly to rebut the claimed cost justification, due to a continuing blanket claim of business confidentiality by Deutsche Telekom.

For this reason and due to continuing uncertainty regarding interconnection arrangements for 2000 and beyond, U.S. competitors to Deutsche Telekom requested, in comments received by USTR, that the out-of-cycle Section 1377 review be continued, with a view to assuring that upcoming decisions by the German regulator receive prompt scrutiny for consistency with Germany’s WTO commitments. The commenters also indicated that, even after interconnection agreements are reached, Deutsche Telekom has been slow in providing necessary facilities and unwilling to share advance information about what interconnection facilities will be available and when.

In consultations with the German regulator held in June, an inter-agency U.S. government team conveyed the U.S. carriers’ concerns, and called upon the regulator to compel Deutsche Telekom to provide advance information on availability of interconnection facilities, as is done in the United States.